

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS E. BLACKWELL, II,

Plaintiff,

v.

LOU ANNA K. SIMON, in her individual capacity as president of Michigan State University, MARK DANTONIO, in his individual capacity as Head Football Coach of Michigan State University, MARK HOLLIS, in his individual capacity as Director of Intercollegiate Athletics for Michigan State University, DETECTIVE CHAD DAVIS, in his individual capacity as a detective for the Michigan State University Police Department, and DETECTIVE SAM MILLER, in his individual capacity as a detective for the Michigan State University Police Department,

Case No: 18-cv-01261

Hon. Janet T. Neff

Magistrate Judge Sally J. Berens

Defendants.

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DEFENDANTS DANTONIO, SIMON, AND HOLLIS' EMERGENCY MOTION TO BE PERMITTED TO SUBMIT EVIDENCE TO THE COURT IN CONNECTION WITH ITS MOTION FOR SANCTIONS AND OTHER RELIEF [ECF NO. 180]

NOW COME the Defendants, Mark Dantonio, Lou Anna K. Simon, and Mark Hollis (collectively “Defendants”), by their attorneys, Kienbaum Hardy Viviano Pelton & Forrest, P.L.C., and for their Emergency Motion To Be Permitted To Submit Evidence To The Court In Connection With Its Motion For Sanctions And Other Relief, say as follows:

1. On Thursday, March 5, 2020, the Honorable Sally J. Berens, heard argument on various motions, including these Defendants’ Motion to Strike and For Sanctions [ECF No. 180].

2. During oral argument, the Court inquired of Plaintiff’s counsel whether it was their intent to file a state court action. Defendants are informed and believe that the Court made this inquiry in order to evaluate Plaintiff’s purpose in having commenced, and maintaining, the instant action in this Court.

3. One of Plaintiff’s counsel, Mr. Warnicke, told the Court that such a filing was being contemplated.

4. On Tuesday, March 10, 2020, at approximately 4:11 p.m., the undersigned was informed by a reporter that such an action in fact had been filed in Wayne County Circuit Court. It appeared that Mr. Warnicke had forwarded the Complaint to the reporter for the purpose of gaining further press attention. In fact, shortly thereafter, several stories were published in the press, as reflected by Exhibit A.

5. Attached hereto as Exhibit B is a copy of the Complaint filed in Wayne County Circuit Court.

6. Based on the Court’s questioning during oral argument on March 5, 2020, Defendants believe that the fact of this filing, and the nature of the allegations made, may be relevant to the Court’s consideration of the motions before it.

7. Shortly before 5:00 p.m. on March 10, 2020, the undersigned called Mr. Warnicke's office, to request concurrence in this motion. The undersigned was unable to reach Mr. Warnicke and left a voicemail, and thereafter emailed Mr. Warnicke, (Exhibit C). By the time of this filing, no response was received.

8. Defendants believe that the Court's ruling on the various motions heard on March 5, 2020, may be forthcoming momentarily, and wish the Court to be in a position to evaluate whether the fact, and content of the Wayne County Circuit Court filing is relevant to its consideration of pending motions.

WHEREFORE, Defendants request that the Court grant their motion to be permitted to submit Exhibit B to the Court for its consideration.

Respectfully submitted,

KIENBAUM HARDY VIVIANO
PELTON & FORREST, P.L.C.

By: /s/Thomas G. Kienbaum
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Dated: March 10, 2020
366124

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2020, the foregoing document and this Certificate of Service was served upon all counsel of record in this matter, via the Court's electronic filing system. I declare the above statements to be true to the best of my information, knowledge and belief.

s/Thomas G. Kienbaum

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